

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS
ABILENE DIVISION

KUNLE ADEYINKA,)	
Institutional ID No. 32805-177,)	
)	
Plaintiff,)	
)	
v.)	CIVIL ACTION NO.
)	1:09-CV-054-C
EMERALD CORRECTIONAL)	
MANAGEMENT, <i>et al.</i> ,)	ECF
)	
Defendants.)	

ORDER

Plaintiff, proceeding *pro se* and *in forma pauperis*, filed a civil rights complaint pursuant to 42 U.S.C. § 1983 complaining about the conditions of his confinement in the Rolling Plains Regional Jail (“Rolling Plains”).¹

The complaint was transferred to the docket of the United States Magistrate Judge for preliminary screening by Order entered April 28, 2009. On May 12, 2009, the court set an evidentiary hearing for July 21, 2009, pursuant to *Spears v. McCotter*, 766 F.2d 179 (5th Cir. 1985), and 28 U.S.C. § 1915. On June 3, 2009, Plaintiff filed a “Motion for Withdrawal of Lawsuits” wherein Plaintiff moved to “withdraw and dismiss, without prejudice, the civil lawsuits filed against Emerald Correctional Management.” On April 29, 2009, and on May 6, 2009, mail sent to the Plaintiff by the court was returned as refused by the inmate. Plaintiff did not appear at the July 21, 2009, hearing.

¹This Court treats the complaint as filed pursuant to *Bivens v. Six Unknown Named Agents of Fed. Bureau of Narcotics*, 403 U.S. 388 (1971). See *Stephenson v. Reno*, 28 F.3d 26, 26 n. 1 (5th Cir. 1994).

Plaintiff did not consent to proceed before the United States Magistrate Judge. Pursuant to this Court's Order entered on April 28, 2009, the Magistrate Judge entered a Report and Recommendation containing findings of fact, conclusions of law, and recommendation for disposition on August 14, 2009. No objections have been filed by Plaintiff.

The undersigned United States District Judge has made an independent examination of the record in this case and has examined the findings, conclusions, and recommendation of the Magistrate Judge.

Based upon this Court's independent examination of the record of the Plaintiff's complaint, Plaintiff's responses to the questionnaire, and authenticated prison records, the Court finds that the Magistrate Judge's findings, conclusions and recommendation should be adopted and accepted.


It is, therefore, ORDERED that Plaintiff's civil rights complaint and all claims alleged therein are DISMISSED without prejudice pursuant to Fed. R. Civ. P. 41(a)(2) and 41(b).

Judgment shall be entered accordingly.

Dismissal of this action does not release Plaintiff or the institution where he is incarcerated from the obligation to pay the filing fee previously imposed. *See Williams v. Roberts*, 116 F.3d 1126, 1128 (5th Cir. 1997).

Any pending motions are denied.

Dated December 16, 2009.


SAM R. CUMMINGS
UNITED STATES DISTRICT COURT